

Serial No. 09/972,949

REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 5 and 10 have been cancelled. No new matter is being presented, and approval and entry are respectfully requested.

Claims 2-4, and 6-9 are pending and under consideration. Claims 8 and 9 remain withdrawn.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicant(s) request(s) entry of this Rule 116 Response because:

(a) the rejected claims have been cancelled;

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

ALLOWED SUBJECT MATTER:

In the Office Action, at page 3, item 7, the Examiner indicated that claims 2-4, 6, and 7 are allowed.

Applicant respectfully submits that withdrawn claims 8 and 9, which depend respectively from independent claims 2 and 6, should be allowable for at least the same reasons as claims 2 and 6, as well as for the additional features recited therein.

REJECTION UNDER 35 U.S.C. §112:

In the Office Action, at page 2, item 3, the Examiner rejected claim 5 under 35 U.S.C. §112, second paragraph for the reasons set forth therein.

Claim 5 has been cancelled.

Serial No. 09/972,949

REJECTION UNDER 35 U.S.C. §103:

In the Office Action, at page 2, item 5, the Examiner rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Moretti et al. (U.S. Patent No. 6,179,471) in view of Hajzler (US 5, 431,413).

Claim 10 has been cancelled.

CONCLUSION:

In accordance with the foregoing, Applicant respectfully submits that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: September 27, 2005

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to: Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313-1450
on September 27, 2005

STAAS & HALSEY

By: Michael A. Bush

Date: September 27, 2005